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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/679,600	10/06/2003	Jorge Carlos Joaquin Romagnoli	J641-002 US	5924

21706 7590 02/16/2006

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ORANGEBURG, NY 10962-2100

EXAMINER

BATSON, VICTOR D

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 02/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary**Application No.**

10/679,600

Applicant(s)

JOAQUIN ROMAGNOLI, JORGE CARLOS

Examiner

Victor Batson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-24 and 31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17-24 and 31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 17-21,24,31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Westerfield (4,374,500) in view of Frase et al., (4,398,478) or Krumholz (3,701,327).

Westerfield discloses leveling wheels 34 & 35, each including a depression (not numbered but shown in figure 3 adjacent discs 18 & 19 respectively), capable of receiving soil pushed aside by the furrow-opener device. Westerfield however is silent as to whether the inner tread of the leveling wheel is adapted to be semipneumatic. Therefore, Westerfield lacks specifying that the wheels are semipneumatic. Frase et al. (col. 4) and Krumholz (col 3) both teach that a semipneumatic inner tread is an equivalent structure known in the agricultural art. Therefore, because these two tread means were art-recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute a wheel with a semipneumatic inner tread as taught by Frase et al., or Krumholz, for the unspecified inner tread of Westerfield.

The limitation of the depression extending between one and two-thirds of the width of the treading band is considered to be an obvious matter of design choice.

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Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Westerfield by having the depression extend between one- and two-thirds the width of the treading band since applicant has not disclosed that having the depression extend the specified distance solves any stated problem or provides any unexpected results, and it appears that the wheels would perform equally well with the depression extending any distance that makes room for soil pushed aside by the furrow-opener.

Concerning the limitations regarding the depth and width of the depression, it is the examiner's position that Westerfield appears to show the depression having a depth about equal to the width (see fig. 3).

Claims 22,23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Westerfield (4,374,500) in view of Frase et al., (4,398,478) or Krumholz (3,701,327) as applied to claims 1-3,6,7,10 above, and further in view of Murray (4,712,492). Westerfield as modified by Frase et al. or Krumholz discloses leveling wheels as described previously, but lacks specifying that the wheels include at least one chord.

Murray discloses the use of chords with an agricultural wheel (figure 2). Chords add strength, rigidity and support to pneumatic tires.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the wheels of Westerfield as modified by Frase et al., or Krumholz by using chords as taught by Murray, to provide strength, rigidity and support.

Response to Arguments

Applicant's arguments filed 12/5/05 have been fully considered but they are not persuasive. Applicant argues that claim 17 has been amended to refer to the fact that the height or depth of the depression in the treading band is more or less equal to the width thereof, give or take about 25%. It is the examiner's position that the depression disclosed in Westerfield (as shown in figure 3) meets such a limitation. Applicant's discussion of the importance of the height-to-width ratio (page 10 of 12 & page 11 of 12) is noted. Additionally, applicant argues that in the Westerfield patent, there is no disclosure of means such as a chord means for preserving the height of the depression under load. Applicant's arguments however are more limiting than the claims themselves since a "chord means for preserving the height of the depression under load" has not been claimed.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor Batson whose telephone number is (571) 272-6987. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Will can be reached on (571) 272-6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

February 14, 2006



Victor Batson
Primary Examiner
Art Unit 3671